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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,959	12/18/2001	John William Artley		7183

7590

07/06/2006

Steven L. Schmid
1257 Donald Sts, Suite 2
Jacksonville, FL 32205

EXAMINER

KHAN, AMINA S

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,959

Applicant(s)

ARTLEY ET AL.

Examiner

Amina Khan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/25/06.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Supplemental Office Action

1. This is a supplemental office action to the examiner's response filed on June 16, 2006.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 25, 2006 has been entered.
3. Claim 1 is pending. Claim 1 has been amended.
4. The rejection of claim 1 under 35 USC 102(e) in view of Offord et al. (US 6,617,268) is withdrawn.
5. Claim 1 stands rejected under 35 USC 102(b) as being anticipated by the article entitled "Multipurpose woven cotton and cotton/polyester blends containing crosslinked

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polyols affixed by a low temperature cure” for the reasons set forth in the office action dated December 23, 2005.

6. Claim 1 stands rejected under 35 USC 102(b) as being anticipated by the article entitled “Improvement of various properties of fiber surfaces containing crosslinked polyethylene glycols” for the reasons set forth in the office action dated December 23, 2005.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Vigo et al. (US 4,908,238).

Vigo et al. teaches treating cotton printcloth with polyethylene glycol, and a mixed catalyst comprising magnesium chloride and citric acid, drying the fabric at 60°C curing the fabric at 170°C, washing for 20 minutes at 50°C with running water and liquid detergent prior to tumble drying (columns 15-16, example 23), wherein washing with running water and detergent would inherently provide neutralization of the fabric. Vigo et al. further teaches that the curing step may be conducted at lower temperatures such as 100°C (column 5, lines 58-65), which meets the claimed limitation of a temperature

that does not exceed 220°F. Therefore, Vigo teaches substituting a lower temperature of 100°C for the 170°C taught in the example. Furthermore, the examiner asserts that “The fact remains that one of ordinary skill informed by the teachings would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant’s composition per se claims are directed.” *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982).

Accordingly, the teachings of Vigo et al. anticipate the material limitations of the instant claims.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Vigo et al. (US 4,851,291).

Vigo et al. teaches treating cotton printcloth with polyethylene glycol, and a mixed catalyst comprising magnesium chloride and citric acid, drying the fabric at 60°C curing the fabric at 170°C, washing for 20 minutes at 50°C with running water and liquid detergent prior to tumble drying (column 16, example 23), wherein washing with running water and detergent would inherently provide neutralization of the fabric. Vigo et al. further teaches that the curing step may be conducted at lower temperatures such as 100°C (column 5, lines 58-65), which meets the claimed limitation of a temperature that does not exceed 220°F. Therefore, Vigo teaches substituting a lower temperature of 100°C for the 170°C taught in the example. Furthermore, the examiner asserts that “The fact remains that one of ordinary skill informed by the teachings would not have had to choose judiciously from a genus of possible combinations to obtain the very subject

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matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982).

Accordingly, the teachings of Vigo et al. anticipate the material limitations of the instant claims.

Response to Arguments

10. The declarations under 37 CFR 1.132 filed April 25, 2006 are insufficient to overcome the rejections of claim 1 based upon the documents, "Multipurpose woven cotton and cotton/polyester blends containing crosslinked polyols affixed by a low temperature cure" and "Improvement of various properties of fiber surfaces containing crosslinked polyethylene glycols", as set forth in the last office action because: declarations under 37 CFR 1.132 are not sufficient to overcome 35 USC 102(b) rejections (see MPEP sections: 2131.04, 706.02(b) and 716).

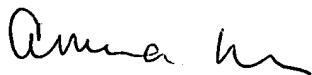
Furthermore the declaration filed by John W. Artley is not commensurate in scope with the teachings of Vigo because Artley states that the application of formula to the substrate was not done by roller application (page 2, paragraph 4). This omission in procedure suggests that the applicant's did not perform the identical protocol to the Vigo articles and therefore the data obtained from these tests is insufficient to overcome the prior art of Vigo. The applicant's declarations provide no data as to the pH of the fabrics after rinsing in "mild detergent" and the identities of the mild detergents used in laundering the treated fabrics. Therefore the rejections over these references are maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Amina Khan
Patent Examiner
June 27, 2006



DOUGLAS MCGINTY
SUPERVISORY PATENT EXAMINER

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